IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 2932 of 1999

Between:

1 Mallela Peda Venkateswarlu, S/o. Jangamreddy, Cultivation,
R/o. Chenchireddipalem (V) Hamlet of Basireddipalem, Gudluru (M)
Prakasam Dist.
2 Mallela China Venkateswarlu S/o. Jangamreddy, Cultivation,
R/o. Chenchireddipalem (V) Hamlet of Basireddipalem, Gudluru (M)
Prakasam Dist.

..... PETITIONERS

AND

1 The Special Commissioner, Land Revenue, Andhra Pradesh

Nampally Station Road, Hyderabad.
2 The Joint Collector, Prakasam District, Ongole.
3 The Revenue Divisional Officer, Kandukur, Prakasam District.
4 The Mandal Revenue Officer, Gudulur Mandal, Prakasam District.
5 Godaperu Abraham S/o. Kondaiah
R/o. Chenchireddipalem (V), Gudulur Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or a writ particularly one in the nature of writ of mandamus declaring that the D-Form Patta granted in F.Dis(DAR)11/94 dated 8.8.84 in favour of the 5th respondent is without jurisdiction, illegal and void and the orders of the Revenue Divisional Officer, Kandukur in D.Dis.4543/87 dated 31-7-1991 as confirmed by the Joint Collector, Prakasam District, Ongole in D.Dis.B2/8739/91

dated 26-2-1994 and the Special Commissioner Land Revenue, A.P. Hyderabad in Proceedings No.BCW3/764/94 dated 4-7-1997 is arbitrary, illegal and unsustainable.

Counsel for the Petitioner:MR.KOKA RAGHAVA RAO

Counsel for the Respondent Nos.1 to 4: GOVT. PLEADER FOR ASSIGNMENT

Counsel for the Respondent No.5: MR.K.CHIDAMBARAM

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2932 OF 1999

ORDER:

The Mandal Revenue Officer by proceedings dt.8.8.1984 assigned an extent of Acs.2.03 in S.No.257/4 of Basireddipalem Village to fifth respondent. The petitioners herein filed an appeal before the Revenue Divisional Officer *inter alia* contending that they have been cultivating the land and therefore assignment in favour of fifth respondent without notice to them is unsustainable. By order dt.31.7.1991 the Revenue Divisional Officer, Kandukur, dismissed the appeal of the petitioners. The petitioners carried the matter by way of further revision before the Joint Collector, second respondent herein. By order dt.26.2.1994, the Joint Collector after verifying the record and taking into consideration the inspection report of the Sub-Collector, Kandukur came to a conclusion that petitioners' mother was having agricultural land admeasuring Acs.11.09 jointly and that except during the period from 1387 fasli to 1391 fasli, the petitioners were not in possession of the land. Aggrieved by the order of the Joint Collector, petitioners again carried the matter before first respondent by way of revision. By impugned order dt.4.7.1997 said revision petition was dismissed holding that the petitioners' mother owns an extent of Acs.12.09 and that they were not in possession of the land at the time of assignment in favour of fifth respondent. This order is assailed in the Writ Petition.

In the counter affidavit filed by the Mandal Revenue Officer, it is stated that the petitioners are not landless poor persons and therefore they are not entitled for assignment. It is also stated that petitioners filed a suit being O.S.No.225 of 1984 on the file of the Court of Principal District Munsif, Kandukur against fifth respondent for permanent injunction, which was dismissed. The petitioners filed A.S.No.59 of 1990 on the file of the Sub-Court, Kandukur, which was also dismissed.

Learned counsel for the petitioners, Sri Koka Raghava Rao, submits that the order passed by second respondent as confirmed by the Joint Collector and the Special Commissioner, Land Revenue, is erroneous. He would urge that petitioners were continuously in possession of the property that they are landless poor persons and that without considering their claims under Board Standing Order (BSO) 15, the assignment of land to fifth respondent is illegal. He would urge that even if the mother of petitioners owns land admeasuring Acs.12.00, the same would not disentitle the petitioners from claiming the land. These contentions are refuted by the learned Assistant Government Pleader for Revenue (Assignment).

It cannot be denied that under BSOs, especially BSO 15, a person who is in occupation of Government land and cultivating the same, would get a preferential right for assignment of land. It is no doubt true as noticed by first respondent, the petitioners cultivated the land during Fasli years 1387 and 1391 (1977 and 1981 respectively). But, when assignment was made in favour of fifth respondent on 8.8.1984 (1394 fasli) the land was wasteland. The Joint Collector has considered these aspects and upheld the orders of the Revenue Divisional Officer, who in turn confirmed the patta in favour of fifth respondent. Therefore, on this ground alone, the patta granted in favour of fifth respondent is sustainable and claim of the petitioners was without any basis. Further, all the authorities after considering the facts and verifying the revenue records, sustained the patta granted in favour of fifth respondent. This being question of fact, I do not find any grave error apparent on the face of the record warranting exercise of Writ jurisdiction in favour of petitioners.

The Writ Petition is devoid of merits and is accordingly dismissed without any order as to costs.

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(V.V.S.RAO, J)

20.9.2004

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To

1 The Special Commissioner, Land Revenue, Andhra Pradesh

Nampally Station Road, Hyderabad.
2 The Joint Collector, Prakasam District, Ongole.
3 The Revenue Divisional Officer, Kandukur, Prakasam District.
4 The Mandal Revenue Officer, Gudulur Mandal, Prakasam District.
5 2 CCs to G.P. for Assignment, High Court Bldgs., Hyderabad (OUT)

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